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ABSTRACT

Included in this document are: (1) definitions of the terms "desegregation," "metropolitan" or "multi-district plans," "non-compliance," "non-conformance," "racial composition," and "school authority"; (2) desegregation report and conformity requirements; (3) details of a corrective plan; (4) content requirements and submission procedures; (5) plan review and amendment guidelines; and (6) enforcement conditions. These rules are intended for application in all Illinois public elementary and secondary schools. (EB)

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RULES PRESCRIBED BY THE STATE BOARD OF EDUCATION ESTABLISHING REQUIREMENTS AND PROCEDURES FOR THE ELIMINATION AND PREVENTION OF RACIAL SEGREGATION IN SCHOOLS

February, 1976

State Board of Education

State of Illinois

The following rules are established pursuant to all pertinent authority and jurisdiction conferred by the Constitution and laws of Illinois and of the United States of America, including particularly Chapter 122, Section 2-3.3, 2-3.6, 2-3.24, 2-3.25 (as amended), 2-3.26, 2-3.35 (as amended), 10-21.3 (as amended), 10-20.12, 10-22.5 (as amended), 18-12 (as amended), 21-21, 22-11, 22-12, 22-19 (as amended), 34-2, 34-18 and 34-22 (as amended) of the Illinois Revised Statutes of 1975.

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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UDO 18579

Joseph M. Cronin
State Superintendent of Education

CERTIFICATION

I hereby certify that the Rules attached hereto and filed herewith and indicated by me by the identifying rule number listed in the "Numerical Table of Contents" (hereby incorporated herein) have been adopted by the Illinois State Board of Education and herewith filed with the Secretary of State of the State of Illinois, conform with the rules prescribed by the Secretary of State for filing of Administrative Rules as required by "An Act Concerning Administrative Rules" (Chapter 127, paragraphs 263 through 268.1, of the Illinois Revised Statutes, 1975, effective June 14, 1951, as amended.

Jack Witkowsky
Chairman
State Board of Education

Done this 17th day of
February, 1976.

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RULES PRESCRIBED BY THE STATE BOARD OF EDUCATION ESTABLISHING REQUIREMENTS AND PROCEDURES FOR THE ELIMINATION AND PREVENTION OF RACIAL SEGREGATION IN SCHOOLS

1. DEFINITIONS

1.1 DESEGREGATION: The affirmative act of a school authority which effects the elimination and prevention of racial segregation with respect to (a) the employment and assignment of certificated and noncertificated personnel, and (b) the assignment of pupils at all schools, and in all grades and departments, within that authority's jurisdiction.

1.2 METROPOLITAN OR MULTI-DISTRICT PLANS: Cooperative pupil attendance arrangements or assignments whereby pupils attend schools located in districts other than those in which they reside.

1.3 NON-COMPLIANCE: The failure or refusal of a school authority to submit or amend or implement a plan within the specified time limits so as to conform to the requirements of Section 3.1 and all subsections of Section 5.

1.4 NON-CONFORMANCE: The condition in which racial segregation exists in the schools under any school authority, that is: (a) the minority racial composition of the pupils in any attendance center fails to reflect, within 15 percentage points, the minority racial composition of the pupils in all attendance centers under a given school authority, and/or (b) the minority racial composition of the certificated or of the noncertificated personnel in any attendance center fails to substantially reflect the minority racial composition of certificated and of noncertificated personnel in all attendance centers under a given school authority. For the purposes of determining conformance "minority racial composition" shall be a single group consisting of all racial categories below except white non-Hispanic.

1.5 RACIAL COMPOSITION: The classification of persons in the following categories: white non-Hispanic, black non-Hispanic, Hispanic, native American and Asian. Persons considered by themselves, by the school authorities, or by the community as members of the aforesaid groups shall be so considered for the purposes of these Rules.

1.6 SCHOOL AUTHORITY: All authorities, bodies, and individuals charged with the governance or administration of public schools or school systems.

2. SCHOOL AUTHORITY REPORTS

2.1 Each and every school authority shall adopt and maintain such pupil assignment practices, and personnel hiring and assignment policies, as will eliminate and prevent segregation in schools because of color, race or nationality, and provide to all students at all levels a desegregated educational environment.

2.2 Not later than October 15 of each year, each and every school authority shall submit, in conjunction with its Annual Fall Housing Report, a report showing (in a manner to be prescribed by the State Superintendent of Education):

(a) the racial composition of all pupils in attendance at schools or centers maintained wholly or in part by each such school authority;

(b) the racial composition of the student body at each attendance center maintained (wholly or in part) by each such school authority, together with information showing the grades, including special classes, programs, or courses, offered at each attendance center;

(c) the racial composition of all certificated and non-certificated personnel employed by the school authority, together with information showing, with respect to each employee, his or her attendance center assignment.

2.3 In addition to the foregoing, the State Superintendent of Education may from time to time and upon reasonable notice to affected school authorities, require school authorities to submit reports, in a manner to be prescribed by the State Superintendent, concerning steps taken to achieve desegregation.

3. REVIEW AND FINDINGS

3.1 Upon receipt of the information required by Section 2.2 of these Rules, the State Superintendent (or the Superintendent's designee) shall promptly review such information and determine whether racial segregation exists in the schools under any school authority, that is, whether any attendance centers are in nonconformance as defined herein.

3.2 If, after the aforementioned review of all relevant information, the State Superintendent of Education finds any schools under the control of a school authority to be in nonconformance with the requirements of these Rules, the Superintendent shall promptly notify in writing the appropriate school authorities specifying the deficiency and requiring the submission of a plan as specified below.

4. REQUIREMENT OF A PLAN

4.1 Any school authorities receiving notification of nonconformance with the requirements of these Rules shall prepare a comprehensive plan to correct the specified deficiencies and achieve conformance with the requirements of these Rules.

4.2 In preparation of a plan, the school authorities shall inform parents and other citizens of the pending issues and shall involve in the planning, on a basis that is racially representative of the entire community which the school authority serves, parents, other interested individuals and professional and community groups.

4.3 Upon receipt of a notification of nonconformance, a school authority may in connection with the development of its plan, request in writing that the Illinois Office of Education furnish technical assistance of an informational and advisory nature. Following receipt of such a written request from a school authority, the Illinois Office of Education shall promptly furnish appropriate technical assistance.

5. SUBMISSION AND CONTENTS OF PLAN

5.1 Within ninety (90) days following the receipt of a notification of non-conformance, the recipient school authority shall submit to the State Superintendent of Education a plan to achieve conformance with the requirements of these Rules.

5.2 Each plan shall contain: (a) an explicit, unqualified commitment by the school authority to fulfillment of the requirements of these Rules without undue delay; (b) a detailed description of the specific actions to be proposed; (c) with respect to the entire plan, and each specific action proposed in the plan, a timetable showing dates of initial implementation and completion.

5.3 In the formulation of plans to eliminate and prevent racial segregation in schools, school authorities shall consider and employ all methods that are educationally sound and administratively and economically feasible, including but not limited to: school pairings and groupings; grade reorganization; alteration of school and school district attendance zones and boundaries; pupil reassignments and such optional transfers as are consistent with these requirements; establishment of educational parks and plazas; rearrangements of school feeder patterns; voluntary metropolitan or inter-district cooperative plans; specialized or "magnet" schools; appropriate course offerings to overcome the effects of past discrimination; reassignments of faculty, staff, and other personnel, affirmative recruitment, hiring, and assignment practices to insure that each authority's personnel corps, as well as the faculty, staff, and other personnel at all attendance centers under the school authority, become and remain broadly representative racially.

5.4 Plans that are based upon parent-pupil choices, or are otherwise voluntary or optional, shall constitute compliance with the requirements of these Rules only to the extent that they actually result in conformance with the requirements of Section 1.4 of these Rules.

(a) Those authorities proposing such optional plans must submit, at the same time, a plan not based on parent or pupil choices which the State Superintendent may require to be substituted in the event that the voluntary plan does not result in conformance as defined in Section 1.4 above.

5.5 All decisions by school authorities concerning selection of sites for new schools, additions to existing facilities and the closing of existing facilities shall take into account, and give maximum effect to, the requirements of these Rules and in particular Section 1.4 above.

5.6 All plans to effect school desegregation shall be equitable and nondiscriminatory. Within the constraints imposed by feasibility and educational soundness, inconvenience or burdens occasioned by desegregation should be shared by all and not borne disproportionately by pupils and parents of racially identifiable groups.

5.7 School authorities shall not adopt or maintain pupil grouping or classification practices which result in racial segregation of pupils within schools for a substantial portion of the school day. Classes for exceptional children may have a disproportionate minority racial composition where it can be shown that such assignments were not made discriminatorily or in order to increase racial segregation.

5.8 All plans shall include specific affirmative proposals to insure that the desegregation process provides an effective learning environment for all children based upon mutual cultural and personal respect among all racial groups. Such proposals may relate, for example, to curriculum revision, in-service training of personnel, and compensatory programs to enable pupils to overcome the adverse educational effects of racial segregation.

5.9 All plans shall contain provisions to the effect that they are subject to continuing review and evaluation by the school authority, and that amendments to improve their effectiveness will be adopted and implemented on a continuing basis; provided, however, that any proposed amendment whose implementation would result in racial resegregation of any school or classroom, shall not take effect until after it has been reviewed by the State Superintendent of Education in the manner provided with respect to plans in Rule 6, below. Submissions of proposed amendments shall be accompanied by materials setting forth the reasons underlying the proposals and their projected effects upon the racial composition of all affected schools and classrooms.

5.10 Prior to submission of the plan, if, in the judgment of the Superintendent, an extension of the time requirement will aid in resolving technical difficulties in the development of a plan, and upon request by the school authority, the Superintendent may extend the time requirement by not more than ninety (90) days (to a total of not more than one hundred eighty (180) days from the original notification under subsection 3.2) or any lesser period.

6. REVIEW OF PLANS AND AMENDMENTS

6.1 The State Superintendent of Education (or the Superintendent's designee) shall promptly review plans and amendments submitted under these provisions and shall determine whether they comply with the requirements of these Rules. In making his determination the Superintendent may require school authorities to furnish such additional information as may be deemed necessary for adequate consideration of the submission. Where educational, physical or economic constraints would place an unreasonable burden upon the school authority in completely conforming, the State Board of Education may, in its discretion, waive the requirement of complete conformance in pupil assignment.

6.2 Upon finding that a plan or amendment meets the requirements of these Rules, the Superintendent shall promptly give written notice to the school authorities to that effect, and the school authority shall implement the plan or amendment forthwith.

6.3 Upon finding that a submitted plan or amendment is conditionally acceptable, or, wholly or in part, unacceptable, the Superintendent shall promptly advise the school authorities in writing of these findings. That communication shall specify the reasons for disapproving the plan or amendment, wholly or in part and may allow the school authorities to submit an amendment which will remedy the defects specified. Not more than sixty (60) days may be allowed for such amendment. In transmitting a communication authorized by this subsection, the Superintendent shall notify the school authorities that technical assistance in the preparation of an adequate plan is available from this office upon written request.

6.4 Upon a finding by the State Board of Education that a school authority has failed or refused to comply with the requirement to submit an acceptable plan within the time specified to conform to the requirements of these Rules and particularly Sections 3.1 and 6.3 above, the State Board of Education shall cause the school authority to be notified in writing that it is in noncompliance with the requirements of these Rules.

6.5 Following the acceptance of a plan by the State Superintendent an annual review of the status of the implementation of said plan shall be made by the State Superintendent (or the Superintendent's designee). If such review indicates that the status of the plan is behind that projected in the timetable included in the plan, the State Superintendent shall further investigate the reasons for such discrepancies. Such information shall then be transmitted to the State Board of Education. If the State Board finds that the school authority has failed or refused to take substantial steps in the implementation of its plan in accordance with the timetable therein, the State Board of Education shall cause the school authority to be notified in writing that it is in noncompliance with the requirements of these Rules.

7.1 Upon a finding of noncompliance by the State Board of Education, the Superintendent shall, in not more than thirty (30) days, place the schools under the affected school authority in the status of Probationary Recognition subject to the following conditions:

(a) They will remain on Probationary Recognition status for one year or until the Superintendent determines that the causes for the finding of noncompliance have been removed, whichever is shorter (except as specified).

(b) Where extraordinary circumstances exist which, in the opinion of the State Board of Education, warrant administrative enforcement measures other than those enumerated herein, but which would create less of a burden upon the schools involved than Probationary Recognition status of all schools under the school authority in question the State Board may order the implementation of those measures for a reasonable time instead of Probationary Recognition status provided that such enforcement measures do not contribute to or perpetuate racial segregation.

(c) Within thirty (30) days after being notified of its Probationary Recognition status, a school authority may request the State Board of Education for a hearing to contest the finding of noncompliance. Said hearing shall be conducted by the State Superintendent or his designated hearing officer and the district shall be accorded ample opportunity to present in person or by counsel such statements, testimony, evidence and argument as may be pertinent to the finding of noncompliance or to any defense thereto. A record of the proceedings shall be kept.

The Superintendent or his designated hearing officer shall prepare a recommendation of affirmance or denial of Probationary Recognition status, which shall include findings of fact. The State Board of Education shall affirm or deny the status of Probationary Recognition after receipt of the recommendation.

7.2 After any school has remained on Probationary Recognition status for a period of one year without effecting compliance with the requirements of these Rules the State Board of Education shall, by motion adopted by the Board, within thirty (30) days cause to be served on the school authority a notice stating that it may request a hearing, and that in the event no hearing is requested by the school authority nonrecognition status (or such other enforcement measures as determined under Section 7.4 (f) below) will be instituted by the State Superintendent thirty (30) days after receipt of said notice. The notice of hearing shall be accompanied by a complaint containing a complete statement of the Board's previous findings and the grounds therefor.

7.3 If the school authority requests a hearing, the State Board of Education shall appoint an impartial hearing officer who shall conduct a hearing and submit findings of fact and recommendations to the State Board.

(a) The hearing officer shall schedule the hearing to begin within thirty (30) days of the date of appointment. At that time he or she shall disclose to the parties any information which might be cause for his or her disqualification. Any objection on that basis shall be made prior to the start of the hearing or shall be deemed waived. The hearing shall be held at the offices of the State Board of Education in Springfield or Chicago.

(b) The hearing shall be public. The hearing officer shall exclude witnesses during the testimony of other witnesses upon the motion of either party.

(c) The hearing shall be conducted as follows:

(1) The parties may be represented by counsel, may request the opposing party to produce witnesses and may cross-examine witnesses of the opposing party.

(2) The hearing officer shall allow the parties to make opening statements.

(3) The State Superintendent's staff shall first present its evidence.

(4) The School authority may then present evidence and offer a defense.

(5) All testimony shall be under oath and a record of proceedings shall be kept. The hearing officer shall keep all exhibits and forward them to the State Board along with the findings and the transcript of proceedings.

(6) The hearing officer shall make rulings on the admissibility of evidence, but the rules of evidence need not be strictly adhered to. All parties shall be afforded fair and equal opportunity for presentation of relevant evidence. Objections may be made and noted, offers of proof may be made, and hostile witnesses may be examined as if on cross-examination.

(7) The hearing may for good cause shown be continued upon the request of a party or upon the hearing officer's own initiative. Such continuances, however, shall not be allowed to unduly delay the proceedings.

(8) Upon the close of the evidence each party shall be allowed to make a closing statement which the hearing officer may require to be in writing.

(9) If the hearing officer shall resign, die,withdraw, refuse or be unable or disqualified to perform as a hearing officer, the State Board shall appoint a new hearing officer who shall hear the entire matter anew.

7.4 The hearing officer shall with reasonable dispatch, make findings of fact and recommendations in writing as to whether the school authority shall be considered in noncompliance under these Rules.

(a) The decision shall be rendered no later than twenty-one (21) days from the close of the hearing or the receipt of final briefs whichever is later.

(b) The recommendation and findings shall be sent immediately to the State Board of Education. Copies of the findings and recommendations shall forthwith be sent to each member of the State Board. A copy of the transcript and exhibits will be kept at the State Board offices and made available to any Board member who wishes to examine them.

(c) The State Board of Education shall take action on the hearing officer's findings and recommendations at the next regular Board meeting which is scheduled at least five (5) days after the members are mailed the recommendations.

(d) If the State Board, after reviewing the findings and recommendations of the hearing officer, determines that the school authority is in a state of continued noncompliance it shall adopt written findings to that effect.

(e) After the State Board has found a school authority in noncompliance as in (d), above, the State Superintendent shall forthwith place the schools under said school authority on Nonrecognition status.

(f) Where extraordinary circumstances exist which, in the opinion of the State Board of Education, warrant administrative enforcement measures other than those enumerated herein, but which would create less of a burden upon the schools involved than Non-recognition status, the State Board may order the implementation of those measures for a reasonable time instead of Non-recognition status provided that such enforcement measures do not contribute to or perpetuate racial segregation.

(g) Upon request for such a hearing no action will be taken penalizing the district pending the outcome of the hearing, but the district shall continue on Probationary Recognition status. Upon the change of status to Non-recognition, the State Board of Education shall notify in writing the United States Department of Health, Education and Welfare that effective immediately and continuing until further notification to the contrary, it declines to accept or expend federal funds available for allotment to such school district.

(h) If the State Board, after reviewing the recommendations of the hearing officer, determines that the school authority is in compliance with these Rules, it shall adopt written findings to the effect and cause them to be served on the district. The schools under that school authority shall forthwith be restored to full recognition status unless a lower status has been ordered for reasons not related to these Rules.

7.5 Where the sequence of enforcement procedures for any district has been interrupted by actions taken (a) prior to the filing of these revised Rules, or (b) by the institution of extraordinary measures, the State Board of Education may at any time order that the regular enforcement procedures be reinstated at whatever stage it deems appropriate to the circumstances of the schools and school authorities involved; provided that no such Non-recognition status shall be instituted without at least thirty (30) days notice within which period the authorities may effect compliance.

7.6 In addition to, but not in lieu of, the foregoing enforcement actions, the Superintendent may, upon a finding and notice of noncompliance and with the consent of the State Board of Education, petition a Court of competent jurisdiction for an appropriate order enforcing the requirements of these Rules. The filing by the Superintendent of such a petition shall stay any action to institute the status of Non-recognition with regard to those schools involved until the petition is disposed of by the Court.

7.7 Pursuant to the pertinent provisions of Section 22-19 of the Illinois School Code, as amended, residents of a school district may petition the State Board of Education concerning alleged racial discrimination against a student or employee by a school district. This remedy shall be in addition to, and not exclusive of, such other remedies as may be available to affected residents of school districts.